

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Industries, Infrastructure, Investment & Commerce Department - Andhra Pradesh
Infrastructure (Transparency through Judicial Preview) Rules, 2019 - Orders -
Issued.

INDUSTRIES, INFRASTRUCTURE, INVESTMENT&COMMERCE (AIRPORTS) DEPARTMENT

G.O.Ms.No.69

Dated 28.08.2019

Read the following: -

1. A.P. Infrastructure (Transparency through Judicial Preview) Act, 2019(A.P. Act No.34 of 2019).
2. G.O.Ms.No.68, III & C (Airports) Department, dated 20.08.2019.

ORDER:

In the references read above, State of Andhra Pradesh enacted Andhra Pradesh Infrastructure (Transparency through Judicial Preview) Act, 2019 (A.P.Act No.34 of 2019) to fast track infrastructure development in the State through transparent processes to secure competition and equal opportunity. In order to implement the provisions of the Act obligating judicial preview of all infrastructure projects including Public Private Partnership (PPP) projects requiring an investment value of Rs.100 crore and above, the Government after careful examination hereby issue the following Rules:

2. The following notification will be published in an Extra-ordinary issue of the Andhra Pradesh Gazette dated 28th August, 2019.

NOTIFICATION

In exercise of the powers conferred under sub-section (1) of section 16 of the Andhra Pradesh Infrastructure (Transparency through Judicial Preview) Act, 2019, the Government of Andhra Pradesh hereby makes the following rules.

RULES

Short title, Extent and Commencement.

1. (1) These rules may be called the Andhra Pradesh Infrastructure (Transparency through Judicial Preview) Rules, 2019.
- (2) These rules shall extend to the entire State of Andhra Pradesh
- (3) These Rules shall apply to all Infrastructure Projects in the Sectors enumerated in the Schedule Appended to the Act on and from the date of notification of the rules.
- (4) These rules shall come into force on and from the date of publication in the Official Gazette.

Definitions:

2. In these rules unless the context otherwise requires:

- (i) "Tender Initiating Department" means such department of the Government / Government agency intending to initiate the process of awarding of infrastructure projects through the process prescribed in the Act.
- (ii) "Tender Related Documents" means the all the documents relating to Tender process as prescribed by Tender Initiating Department/ Government agency/Local Authority.
- (iii) "Publication Period" means the period given for inviting suggestions from the public on the proposed infrastructure project.
- (iv) "Preview Period" means the period during which the Honourable Judge to undertake Judicial Preview of the tender related documents.
- (v) "Form-I" means the format prescribed for submitting the tender related documents to the Honourable Judge for Judicial Preview, by the tender initiating department.
- (vi) "Form-II" means the format prescribed for recommendations of the Judicial preview to the tender initiating department.
- (vii) "Form-III" means the format of communication of compliance with the recommendations of the Honourable Judge, as appended to the rules.
- (viii) "Person/persons of Eminence" means an expert/experts with work experience of not less than 10 years in the field relevant to the project under preview.

Chapter-I

Terms and Conditions for Appointment of Judge of High Court for the Judicial Preview

3.

- (i) The Government shall by notification appoint a person who is or has been a Judge of High Court preceded by due consultation with the Hon'ble Chief Justice of the High Court of Andhra Pradesh for an initial term of three (3) years. Provided that with prior consent, the term may be extended by a further period of not more than two (2) years.
- (ii) In case, a vacancy arises either due to the resignation or for any other reason, at any time, before the expiry of the term of office the Government shall within one (1) month appoint another Honourable

Judge as specified in rule 3(a) to carry out the functions and discharge the responsibilities under the Act.

- (iii) The Government shall provide following employees/staff to assist the Honourable Judge in discharge of the functions under:

Sl. No	Name of the Post	Number of Posts
A	Officers	
1	Secretary to the Judge in the cadre of Dy. Secy. / Jt. Secy.	1
B	Administrative Staff	
2	Accountant	1
3	Superintendent	1
4	Senior/Junior Assistants	2
5	Senior Stenographers	3
6	Drivers	2
7	Office Subordinates	6
C	Technical Staff	
8	Dy. Executive Engineer	1
9	Asst. Executive Engineer	2
10	Head Draftsman	1
11	Draftsman/Technical Assistants	2
12	Data Entry Operators	2
	Total of A+B+C	24

4. Obligation of Tender Initiating Department

The Tender Initiating Department shall:

- (i) provide a panel of experts to assist the Honourable Judge for discharging the functions under the Act.
- (ii) secure the presence and participation of persons of eminence, for assistance in terms of section 4(3) of the Act, as may desired by the Honourable Judge on case to case basis.
- (iii) follow the procedure for Judicial Preview as prescribed under rule 6 of these rules.

5. Terms of Reference for Judicial Preview

Upon reference of the infrastructure projects for judicial preview, the Honourable Judge shall:

- (i) examine the terms and conditions of the tender for any infrastructure project, and to give suitable recommendations as are deemed necessary

(ii) examine the tender related documents so as to verify that the same is just, equitable, transparent and provides for equal opportunity and to give suitable recommendations to the tender initiating department with regard to any changes in the tender related documents needed to achieve the objectives of the Act;

(iii) to verify and make recommendations to ensure that the terms and conditions of the tender are in consonance with procedure, rules and guidelines of the State and Central Government.

(iv) to verify whether the agreements proposed are fair, just and contain suitable provisions for protection of the interests of the tender initiating department as the case may be and suggest suitable amendments if any needed for the purpose.

(v) to examine any specific condition or aspect of the tender or any unsolicited proposal or suo-moto proposal for any infrastructure project, as may be referred to under the Act; and/or

(vi) any other terms of reference as may be prescribed.

6. Procedure for Judicial Preview

(i) The tender initiating department intending to initiate a tender process for a infrastructure project shall prepare tender related documents and submit the same to the judicial preview in FORM-I (Annexed) along with enclosures;

(ii) The Honourable Judge after receipt of the FORM-I shall place all the tender relating documents in the Public Domain immediately. The documents will be in the public domain for seven (7) working days for receiving suggestions from the public by email at www.transparency_jp@ap.gov.in (or) to the Office of the Honourable Judge in writing.

(iii) The suggestions/objections received by the Honourable Judge shall be forwarded to the tender initiating department on the same day, as far as practicable.

(iv) At the end of the publication period, the Honourable Judge shall conduct the process of judicial preview so as to conclude the same within eight (8) working days duly taking into account the submissions of the Tender initiating department. At the end of this preview period, the Honourable Judge shall communicate the recommendations, including reasons thereof to the tender initiating department in FORM-II.

(v) Within seven (7) clear working days from the receipt of FORM -II, the tender initiating department shall comply with recommendations of the preview in the tender related documents, duly informing the Honourable Judge of the same in Form- III (Annexed).

(vi) The Honourable Judge may adopt such further procedure as is deemed reasonable and practicable in this regard.

7. Powers of Judge

(1) The Honourable Judge shall, for the purposes of any inquiry or any examination under the Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act.No.5 of 1908) in respect of the following matters, namely:-

(i) summoning and enforcing the attendance of any person;

(ii) discovery and production of any document or other material object producible as evidence;

(iii) requisitioning of any public record

(iv) The tender initiating department shall be bound to provide the necessary documents and records to the Honourable Judge so as to ensure that the judicial preview can be conducted in smooth and expeditious manner.

(2) The Honourable Judge may prescribe appropriate procedure or mechanism to deal with scurrilous or malicious attempts to obstruct, delay and thereby defeat the objective of Judicial Preview under the Act.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RAJAT BHARGAVA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner of Printing and Stationery,
A.P., Vijayawada (with a request to send 300 copies to Government)

Copy to:
The Law Department, A.P. Secretariat, Velagapudi.
The Finance Department, A.P. Secretariat, Velagapudi.
The P.S. to Secretary to Governor, Raj Bhavan, Hyderabad.
The P.S. to Secretary to Legislature, Legislature Secretariat, Velagapudi.
The P.S. to Prl.Advisor to C.M.
The P.S to Chief Secretary.
The P.S to Addl.C.S to C.M.
The P.S. to Prl.Secretary, I,I,I&C Dept.
Sc/Sf (w.r.t.C.No.ENE01-APIA/4/2019)

// FORWARDED :: BY ORDER //

SECTION OFFICER

Form-I

From
The Tender Initiating Department

To
The Honourable Judge

Government has accorded permission for taking up----- project vide G.O./ Letter/ Memo, dt. ----- with a project investment value Rs. ----- and qualifies the investment criteria of Rs.100 Cr and above as per the Act and it necessitates judicial preview. The tender related documents are submitted in 4 sets which has the proposed process for tender, specifications, quantum of works, principle of mode of tender.

This is to certify that the above information is true to the best of my knowledge.

Signature of the Authority/Intending Dept.,

Form-II

From

The Honourable Judge

To

The Tender Initiating Department

Received tender documents referred by ----- on date -----.
This same has been put in public domain from date ----- to ----- inviting
suggestion. The Consultations were held with the tender initiating department on
the suggestions received from public and also referred to experts for their opinion.

Accordingly, the findings of the judicial preview clause wise is annexed to
this letter for taking further action.

Honourable Judge

Form-III

Compliance Report

This is to certify that the recommendation(s) made by the Honourable Judge have been carried out and corrected bid document(s) is/are submitted herewith for compliance.

Signature of Authority/Tender Initiating Department